**Memos Week 4 – Irene Quadrelli**

**Baker (2010) Restraining Regulatory Capture? Anglo America, Crisis Politics and Trajectories of Change in Global Financial Governance, *International Affairs,* 86(3): 647–664.**

**Main argument**

In this 2010 article, Baker warns against the dangers of regulatory capture by looking at what he calls “multilevel regulatory capture” occurring before the 2007-2008 financial crisis. According to Baker, the decades leading up to the crisis were characterized by regulatory capture at a national and international level, occurring chiefly through lobbying and because of mechanisms such as “revolving doors” and intellectual or cognitive capture. The author then investigates relevant attempts at reform and argues that while regulatory capture is being limited, structural problems persist that prevent it from being adequately restrained. In particular, Baker ascribes partial successes in curtailing regulatory capture to the consequences of the increased political salience of financial regulation. However, he also claims that none of the regulatory attempts that have followed the crisis have been explicitly aimed at countering regulatory capture in itself.

**Valuable insight**

One of the few truly optimistic notes expressed in Baker’s article is also one of the most valuable insights the article provides. Throughout his analysis of global financial regulatory capture, the author emphasizes the important role of Anglo-American financial institutions on the international stage. The fact that powerful lobbying actors involved in regulatory capture come from specific places is often taken for granted and therefore overlooked. Baker, however, views the emergence of new markets and new state actors as potentially important in reducing Anglo-American primacy and therefore regulatory capture. This seems reasonable, particularly given existing structural issues such as campaign funding in the U.S. as an important lobbying instrument.

**Major critique**

Baker does a very good job of providing factual evidence for most of his various arguments around regulatory capture. This includes his argument that the change which occurred in the “intellectual climate” around financial regulation after the crisis was the most important step towards lessening regulatory capture.As cautious as the author is in appraising regulatory progress, however, his enthusiasm regarding this change in opinions and sentiment after the crisis is perhaps misplaced. Despite the newfound popularity of macroprudential regulatory strategies among regulators, the author himself points out how the key takeaway from the crisis for the most powerful financial actors was that, microprudentiality or not, they would be shielded from the worst of the consequences of their actions. Perhaps what would be needed to justify excitement about intellectual paradigm changes is some reverse intellectual capture directed at financial actors.

**Policy implications**

Since much of Baker’s article is dedicated to pointing out regulatory shortcomings, its policy implications are many. Perhaps the most interesting ones, but also the hardest to pinpoint and gauge, are those regarding governments’ overreliance on financial services and access to credit as means to provide for their citizens, or at least keep them happy. Easier to parse out, though still quite interesting, are the author’s calls to address the “revolving doors” phenomenon as well as the issue of campaign financing in the United States. Something the author states is the need to involve a more diverse set of actors within regulatory debates. Earlier in the article, he also touches upon the possibility of intervening on the recruitment and training of financial regulators. Perhaps facilitating access to that kind of career path for ‘outsiders’ would be a good way of creating doors that will not revolve.

**Young, K. L. (2012) Transnational Regulatory Capture? An Empirical Examination of Transnational Lobbying of the Basel Committee on Banking Supervision, *Review of International Political Economy*, 19 (4): pp. 663-688.**

**Main argument**

At a time of great popularity for the concept of regulatory capture, Young investigates its empirical underpinnings through archive materials and interviews. Focusing on the generation of the 2004 Basel II Capital Accord, Young finds that financial industry lobbyists were often less influential in the process than they were later made out to be. More specifically, he analyzes two case studies in which private finance actors (mainly the IIF and the ISDA) did not achieve goals they were pushing for (or achieved only “very mixed” results), and one case in which one private actor (basically a group of IIF defectors) actually pushed to make regulation stricter (which, Young argues, counters the idea that private actors always lobbied for and obtained more lenient regulation). As a consequence, he argues that the role of private actors within pre-global financial crisis regulatory efforts should be conceptualized in “more nuanced” terms than what the concept of regulatory capture allows for.

**Valuable insight**

Perhaps the most valuable aspect of Young’s work in this article is the effort he makes to actually piece together how negotiations played out, what demands were made, who the actors involved were and what their interests were. Whether one agrees with his arguments or not, Young is right in pointing out that this kind of effort is actually quite rare within international political economy literature (this is also argued by Carpenter and Moss in their 2014 chapter on regulatory capture). It is therefore very interesting to have a window opened on the workings of decision-making processes within regulatory efforts, particularly, as Young himself underlines, when the picture that emerges is one of a diversified set of private actors with occasionally conflicting interests.

**Major critique**

Another aspect of research on cognitive capture that Young convincingly critiques is the lack of comprehensive studies considering variation among policy outcomes. Supporters of cognitive capture, he argues, only focus on case studies which support their arguments and convictions. This is most likely valid criticism, which however also applies to Young’s own article. Instead of providing the study in variation he advocates for, he limits himself to using three case studies, all from the Basel II negotiations, to prove that regulatory capture does not in fact exist. This works within the internal logic of the article to the extent that Young depicts the literature on regulatory capture within financial regulation as monolithic and radical in its convictions. But economics is a social science, and three case studies that provide some evidence against a theory are perhaps not enough to prove it is useless. That is, they would probably not be, even if they did all disprove said theory. Ironically, the third case study Young chooses could actually even be argued to prove the existence of regulatory capture rather than disprove it. While it is true that the regulatory outcome in that case was not in line with what private financial industry actors are usually said to lobby for, it is still quite significant that an informal group of individuals was able to have international binding regulation passed not in small part just to advance their own careers, as Young himself dutifully reports.

**Policy implications**

One interesting policy implication of Young’s article has to do with the variation he describes among private financial industry actors and with regards to their policy preferences. With a mind to counter the potentially damaging effects of financial industry lobbying and private influence on public decision-making (regulatory capture?), it is important to consider that different private actors do have different interests leading them to push for different regulatory outcomes through, potentially, different strategies. This diversity must be considered for policies to be comprehensive in their approach and can perhaps also be exploited to counter lobbying efforts.

**Carpenter, D., & Moss, D. A. (Eds.). (2014). *Preventing Regulatory Capture. Special Interest Influence and How to Limit it*. Cambridge: Cambridge University Press, pp. 1-22**

**Main argument**

The chapter builds on the assumption that while regulatory capture can be extremely damaging, it does not always occur in the same way and with the same results. This opens up the question of how to effectively prevent regulatory capture when it does occur. Carpenter and Moss proceed to analyze scholarship on regulatory capture and its shortcomings. Part of the academic and practical difficulties surrounding regulatory capture, they argue, stem from failures to properly define it, recognize it (or its absence), and address it. These failures result in a certain dose of fatalism vis a vis the possibility of effective regulation in many areas, despite the fact that regulation can be both useful and effective. The authors then call for scholarship to adopt a clearer, more nuanced, and evidence-based understanding of regulatory capture, one that can better equip policy makers in their attempts to reduce it.

**Valuable insight**

Carpenter and Moss provide a very useful overview of the history of regulatory capture scholarship. Reading literature on regulatory capture within the financial industry, the impression can be that authors arguing that regulatory capture occurs systematically also tend to argue in favor of more regulation. It is therefore very interesting to note how regulatory capture can instead be used as an argument to deregulate. The authors’ response, which distinguishes between strong and weak capture and their effects, is also quite enlightening.

**Major critique**

Perhaps the section in the chapter that raises the most questions is the one regarding the definition of capture, and particularly the paragraph on the necessity to prove not only action, but intent. While the authors’ choice to refrain from detailed definitions elsewhere (namely on the issue of public interest) is understandable, further detail is needed around their conceptualization of “intent”. Some forms of capture as they are conceptualized in literature seem to occur through mechanisms that might defy efforts to pin down actions done with the specific intent of obtaining specific policy shifts. This is particularly true in the case of intellectual or cognitive capture - if we are looking at broader intellectual trends, can we still find proof of intent? If not, does that mean capture is not occurring?

**Policy implications**

Once more, the key distinction the authors introduce between weak and strong regulatory capture is one of the most valuable insights provided by the article. It is also one that has interesting policy implications. As the authors themselves point out, the distinction provides a useful argument to counter the idea that deregulation is an effective antidote to regulatory capture. Situations in which regulatory capture is strong call for more drastic policy measures, but those situations, the authors argue, are rare. In other cases, policies can be implemented to reduce regulatory capture without deregulating entirely.